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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/524,526

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Gunter Gerhart

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EXAMINER

STRIMBU, GREGORY J

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

05/15/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/524,526	<b>Applicant(s)</b> GERHART, GUNTER	
	<b>Examiner</b> Gregory J. Strimbu	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,8,10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,8,10 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/18/08</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### ***Drawings***

The drawing correction filed June 19, 2007 has been approved.

### ***Claim Rejections - 35 USC § 112***

Claims 1, 4, 5, 8, 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "means of lower castors" on line 2 of claim 1 and "means of ball bearings" on line 12 of claim 1 render the claims indefinite because the applicant has attempted to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding or following "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). Recitations such as "the castor carrier" on lines 11-12 of claim 1 render the claims indefinite because it is unclear to which one of the plurality of castor carriers set forth above the applicant is referring. Recitations such as "the manner of a rocker" on lines 23-24 of claim 1 render the claims indefinite because it is unclear what the applicant is attempting to set forth. What comprises a "rocker"? What comprises "in a manner of"? How close to the "rocker" motion does the securing member need to move before it can be referred to as moving in the manner of a rocker?

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riegelman et al. (US 4064592) in view of Ezman (US 5671502). Riegelman et al. discloses a wall or door element 60 which can be moved by means of lower castors 10, 10' on floor runners 40 with the castors being mounted in each case on a castor carrier 12, 62, 12', 62', and the wall or door element being at least partially liftable and lowerable relative to the castors, wherein:

a) the castors are mounted rotatably on a central, fixed hub 14 of the castor carrier;

b) the hub 14 is positioned between two supporting limbs (not numbered, but comprising the walls of 12 which include the holes 50) of the castor carrier;

c) a securing member 15 is arranged on the hub, the securing member comprising anchoring members 24, 26 that enter into the runner 40 in front of and behind the castor so as to secure the castor against lifting off from the runner, the runner being a hollow body as shown in figure 2;

d) the securing member 15 further comprising a supporting wall 28 that is mounted on a side of the castor on the fixed hub 14; and

e) the securing member is pivotable on the hub in the manner of a rocker;

the securing member 15 has a triangular shape with an upper central region mounted on the hub 14.

Riegelman et al. is silent concerning ball bearings and the securing member including two supporting walls.

However, Ezman discloses a securing member 10 having two supporting walls (not numbered, but one of which is shown supporting the hub 16 as shown in figure 2) and further discloses the use of ball bearings 17 for supporting a castor 11.

It would have been obvious to one of ordinary skill in the art to provide Riegelman et al. with two supporting walls and ball bearings, to more securely mount the securing member to the hub and to reduce the force generated by friction as the wall element is moved, respectively.

Claims 4, 8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riegelman and Ezman as applied to claims 1 and 5 above. Riegelman, as modified above, is silent concerning castors having a central guide rim and a runner having a runner limbs.

However, Ezman further discloses a runner 21 comprises a guide slot 12;

b) castors 11 comprise a central guide rim 24 having two sides, the guide rim running all the way around the castors and that enters into the guide slot of the runner;

c) supporting surfaces 25 of the castor, which are formed at both sides of the guide rim, rest on runner limbs 22 at corresponding sides of the guide slot of the runner; and

d) anchoring securing members 27, 31, are configured as securing hooks that enter the runner at both sides of the castor via the guide slot in such a manner that laterally directed projections of the securing hooks are located near in the region of the runner limb.

It would have been obvious to one of ordinary skill in the art to provide Riegelman, as modified above, with runners and castors, as taught by Ezman, in order to provide a better means for preventing the castors from jumping the runners.

With respect to claim 8, one of ordinary skill in the art is expected to routinely experiment with parameters so as to ascertain the optimum or workable ranges for a particular use. Accordingly, it would have been no more than an obvious matter of engineering design choice, as determined through routine experimentation and optimization, for one of ordinary skill to provide the supporting surfaces of the castors with an outwardly directed, sloping inclination of approximately 5 degrees to better center the castors on the runners.

### ***Response to Arguments***

Applicant's arguments filed April 30, 2008 have been fully considered but they are moot in view of the new grounds of rejection.

### ***Conclusion***

**THIS ACTION IS NOT MADE FINAL.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory J. Strimbu/  
Primary Examiner, Art Unit 3634